

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EMMA DUNN and ALANA DUNN,
Plaintiffs,
v.
MARCLITE ELECTRICAL
CORPORATION FLORIDA, *et al.*,
Defendants.

Case No. 1:25-cv-00565-JLT-BAM

ORDER GRANTING PLAINTIFFS' MOTION
FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT

(Doc. 11)

THIRTY (30) DAY DEADLINE

Plaintiffs Emma Dunn and Alana Dunn, proceeding *pro se*, initiated this civil action on May 12, 2025. (Doc. 1.) Because the initial complaint filed on May 12, 2025, was not signed, the Court struck that complaint from the record and directed Plaintiffs to submit a signed complaint within thirty days. (Doc. 2.) Plaintiffs filed a signed document titled "Amended: 1st Amend Second Amended; Forma Pauperis Amend: Pleading motion signing" on July 14, 2025, which was docketed as Plaintiffs' Complaint. (Doc. 7.)

On July 23, 2025, Plaintiffs filed a document titled "Amended Complaint Objections ... Clerk error in customer service," which was docketed as Plaintiffs' First Amended Complaint. (Doc. 9.)

On August 5, 2025, Plaintiffs submitted a document titled "Amended Complaint Complaint for a Civil Case Amend: Paupers Applications Amend: Federal Rule of Civil Procedure 15. Amended Cognizable claims Jurisdiction," which was lodged as Plaintiffs' Second

1 Amended Complaint. (Doc. 11.) The Court will construe this lodged document as a motion for
2 leave to file a second amended complaint.

3 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's
4 pleading once as a matter of course at any time before a responsive pleading is served.

5 Otherwise, a party may amend only by leave of the court or by written consent of the adverse
6 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). "Rule 15(a)
7 is very liberal and leave to amend shall be freely given when justice so requires.

8 *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and
9 quotation omitted). However, courts "need not grant leave to amend where the amendment: (1)
10 prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation;
11 or (4) is futile." *Id.*

12 In considering the relevant factors, the Court finds no evidence of prejudice as defendants
13 have not been served and have not appeared in this action. The Court also finds that Plaintiffs
14 have not unduly delayed in seeking to amend and there is no indication that any amendment is
15 brought in bad faith. Given the procedural posture of this action, the Court will defer any
16 assessment of futility of amendment and will grant leave to amend to file a second amended
17 complaint. As Plaintiffs have paid the filing in fee in this action, the Court will direct the
18 issuance of new case documents and summonses only after the filing of a second amended
19 complaint.

20 Plaintiffs are advised that any amended complaint must contain "a short and plain
21 statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a).
22 Further, Rule 10 of the Federal Rules of Civil Procedure requires, among other things, that a
23 complaint (a) state the names of "all the parties" in the caption; and (b) state a party's claims in
24 sequentially "numbered paragraphs, each limited as far as practicable to a single set of
25 circumstances." Fed. R. Civ. P. 10. Plaintiffs are also advised that an amended complaint
26 supersedes the original complaint. *Lacey v. Maricopa County*, 693 F.3d 896, 927 (9th Cir. 2012).
27 Therefore, Plaintiffs' amended complaint must be "complete in itself without reference to the
28 prior or superseded pleading." Local Rule 220.

Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiffs' motion for leave to amend to file a second amended complaint (Doc. 11) is GRANTED.
2. Within **thirty (30) days** from the date of service of this order, Plaintiffs shall file a second amended complaint.
3. If Plaintiffs fail to file an amended complaint in compliance with this order, then the Court will recommend dismissal of this action.

IT IS SO ORDERED.

Dated: November 6, 2025

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE